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OFFICE OF PETITIONS

In re Application of	:	
Angelucci, et al.	:	
Application No. 09/942,333	:	ON PETITION
Filed: August 29, 2001	:	
Attorney Docket No. 8932-546	:	

This is a decision on the petition to revive the abandoned application under 37 CFR 1.137(b), filed April 11, 2007.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed May 4, 2006. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed a response on November 3, 2006, made timely by obtaining a three (3) month extension of time. However, by Advisory Action mailed November 24, 2006, the Examiner advised Applicant that the response would not be entered because it failed to place the application in condition for allowance. Accordingly, the application became abandoned on November 5, 2006. A Notice of Abandonment was mailed on December 11, 2006. With the instant petition, petitioner paid the petition fee, made a proper statement of unintentional delay, and submitted the required reply in the form of a Notice of Appeal.

The \$500 fee for the Notice of Appeal and the \$1,500 petition fee have been charged to Deposit Account No. 50-3013, as authorized.

Petitioner's request that the petition fee not be charged is dismissed.¹

The matter is being forwarded to Group Art Unit 3733 for consideration of the Pre-Appeal Brief Request for Review, filed April 11, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

¹ 37 CFR 1.135(b), the regulation relevant to the abandonment of this application, provides that (A) the admission of, or refusal to admit, any amendment after final rejection, or any related proceedings, will not operate to save the application from abandonment; and (B) the admission of, or refusal to admit, any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment. It is the applicant's responsibility to take the necessary action in an application under a final Office action to provide a complete reply under 37 CFR 1.113. 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal. Applicant should have ensured that the amendment had been entered or applicant should have filed either a Request for Continued Examination (RCE), continuing application, or Notice of Appeal.